HON'BLE THE ACTING CHIEF JUSTICE SRI BILAL NAZKI

AND

HON'BLE SRI JUSTICE K.C. BHANU

Writ Petition No.24947 of 2005

Dated: 23rd November 2005

Between:

C. Krishna Reddy & another … Petitioners

And

Government of Andhra Pradesh, rep. by its
Principal Secretary, Agriculture & Cooperation
(Coop. IV) Department, Secretariat, Hyderabad
and four others. … Respondents

Oral Judgment: (per the Hon'ble Sri Bilal Nazki, the Acting Chief Justice)

…

The petitioners have challenged an order passed by the Principal Secretary to Government granting exemption to one Kallem Venkat Reddy to contest the election to the Cooperative Society. This exemption is granted under the third proviso to Section 21-A (1A) of the A.P.
Co-operative Societies Act, 1964 (for short 'the Act'). Section 21-A (1A) lays down that a person having more than two children shall be disqualified for election or for continuing as a Member of the Committee, whereas the proviso under challenge lays down that the Government may direct that the disqualification in this section shall not apply in respect of a person for reasons

to be recorded in writing. The petitioners have challenged the order passed in favour of respondent No.5 granting him exemption under the above proviso. The petitioners have challenged the above proviso also on the ground that it is contrary to Section 21-A (1A) itself.

We have heard the learned counsel for the parties. We do not feel that the above proviso is unreasonable or contrary to Section 21-A (1A) of the Act because there can be situations where a third child is born to a couple without having any control over such birth by the couple. One can assume that there is a person already having a child and wants another child and twins are born; in such a situation, in our view, the Government should have power to give exemption of application of these provisions and the Legislature perhaps has thought it proper to provide for such contingencies.

The learned counsel for the petitioners contends that although the third proviso to Section 21-A (1A) provides that reasons should be given for exercising of this power by the Government, no reasons have been given.

We have read the impugned order. It appears that the Government has accepted the contentions of the 5th respondent, who sought to contest in an election. Although he had more than two children, he contended that his wife had undergone a family planning operation, therefore, he was under the bona fide belief that his wife cannot conceive and cannot give birth to third child, but the operation failed and she conceived and the doctors refused to end the conception because of the health of his wife, therefore, he had no option but to allow birth of the third child. The Government has accepted this contention of the 5th respondent and granted exemption. We do not think that the impugned order is without reasons. For what has been stated above, we do not find any merit in the writ petition and it is dismissed.

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(Bilal Naki, ACJ)

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(K.C. Bhanu, J)

23rd November 2005

svs